

PUBLIC HEALTH CODE (EXCERPT)

Act 368 of 1978

PART 175

OSTEOPATHIC MEDICINE AND SURGERY

333.17501 Definitions; principles of construction.

Sec. 17501. (1) As used in this part:

(a) "Electrodiagnostic studies" means the testing of neuromuscular functions utilizing nerve conduction tests and needle electromyography. It does not include the use of surface electromyography.

(b) "Medical care services" means those services within the scope of practice of physicians licensed and approved by the board, except those services that the board determines shall not be delegated by a physician without endangering the health and safety of patients as provided for in section 17548(3).

(c) "Physician" means an individual licensed under this article to engage in the practice of osteopathic medicine and surgery.

(d) "Practice of osteopathic medicine and surgery" means a separate, complete, and independent school of medicine and surgery utilizing full methods of diagnosis and treatment in physical and mental health and disease, including the prescription and administration of drugs and biologicals, operative surgery, obstetrics, radiological and other electromagnetic emissions, and placing special emphasis on the interrelationship of the musculoskeletal system to other body systems.

(e) "Practice as a physician's assistant" means the practice of medicine, osteopathic medicine and surgery, and podiatric medicine and surgery performed under the supervision of a physician or podiatrist licensed under this article.

(f) "Supervision" has the meaning ascribed to it in section 16109 except that it includes the existence of a predetermined plan for emergency situations, including, but not limited to, the designation of a physician to supervise a physician's assistant in the absence of the primary supervising physician.

(g) "Task force" means the joint task force created in section 17025.

(2) In addition to the definitions in this part, article 1 contains general definitions and principles of construction applicable to all articles in the code and part 161 contains definitions applicable to this part.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1990, Act 247, Imd. Eff. Oct. 12, 1990;—Am. 2005, Act 264, Eff. Mar. 30, 2006;—Am. 2006, Act 161, Eff. Nov. 26, 2006.

Compiler's note: For transfer of powers and duties of certain health-related functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

Popular name: Act 368

333.17508 Physician's assistant; health profession subfield.

Sec. 17508. Practice as a physician's assistant is a health profession subfield of the practice of osteopathic medicine and surgery, the practice of medicine, and the practice of podiatric medicine and surgery.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2006, Act 161, Eff. Nov. 26, 2006.

Popular name: Act 368

333.17511 Practice of osteopathic medicine and surgery and practice as physician's assistant; license or authorization required; conditions; use of words, titles, or letters.

Sec. 17511. (1) A person shall not engage in the practice of osteopathic medicine and surgery or practice as a physician's assistant unless licensed or otherwise authorized by this article.

(2) Notwithstanding section 16145 or rules promulgated under that section, the board may grant a license in accordance with section 16186 after determining that each of the following conditions is satisfied:

(a) The applicant has disclosed that a sanction is in force against him or her as described in section 16174(2)(b) and considering the reasons for the sanction and the applicant's record of practice, experience, credentials, and competence to engage in the practice of osteopathic medicine and surgery, that sanction should not prevent the applicant from being granted a license in this state.

(b) The sanction imposed by the other state is not permanent.

(c) The sanction imposed by the other state was not the result of a patient safety violation.

(d) If the applicant was required by the state that imposed the sanction to participate in and complete a probationary period or treatment plan as a condition of the continuation of his or her licensure, the applicant did not complete the probationary period or treatment plan because the applicant ceased engaging in the practice of osteopathic medicine and surgery in that state.

(e) As a condition of licensure under this subsection, the applicant voluntarily agrees to complete a probationary period or treatment plan, the terms of which are no less stringent than those imposed by the state that imposed the sanction.

(3) Except as otherwise provided in this subsection, the following words, titles, or letters or a combination thereof, with or without qualifying words or phrases, are restricted in use only to those persons authorized under this part to use the terms and in a way prescribed in this part: "osteopath", "osteopathy", "osteopathic practitioner", "doctor of osteopathy", "diplomate in osteopathy", "d.o.", "physician's assistant", and "p.a.". Notwithstanding section 16261, a person who was specially trained at an institution of higher education in this state to assist a physician in the field of orthopedics and, upon completion of training, received a 2-year associate of science degree as an orthopedic physician's assistant before January 1, 1977 may use the title "orthopedic physician's assistant" whether or not the individual is licensed under this part.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2006, Act 386, Imd. Eff. Sept. 27, 2006;—Am. 2006, Act 398, Imd. Eff. Sept. 27, 2006.

Popular name: Act 368

333.17512 Postgraduate study; full or limited license required; requirements of limited license; responsibility for training; limited license renewable.

Sec. 17512. (1) An individual shall not engage in postgraduate study before obtaining a full or limited license to practice under this part.

(2) A limited license for a postgraduate shall require that the individual confine his or her practice and training to a hospital or institution approved by the board for the training. The hospital or institution is responsible for the training. A limited license for a postgraduate is renewable for not more than 5 years.

History: 1978, Act 368, Eff. Sept. 30, 1978.

Popular name: Act 368

333.17513 Alternative methods of treatment of breast cancer; duty of physician to inform patient; standardized written summary or brochure.

Sec. 17513. (1) Beginning November 6, 1986, a physician who is administering the primary treatment for breast cancer to a patient who has been diagnosed as having breast cancer shall inform the patient, orally and in writing, about alternative methods of treatment of the cancer, including surgical, radiological, or chemotherapeutic treatments, or any other generally accepted medical treatment. The physician also shall inform the patient about the advantages, disadvantages, and risks of each method of treatment and about the procedures involved in each method of treatment.

(2) If a patient receives a standardized written summary or brochure, as described in section 17013(2) or (3), the physician shall be in full compliance with this section, including both the written and oral requirements.

(3) A physician's duty to inform a patient under this section does not require disclosure of information beyond what a reasonably well-qualified physician licensed under this article would know.

History: Add. 1986, Act 195, Imd. Eff. July 8, 1986;—Am. 1989, Act 15, Imd. Eff. May 15, 1989.

Popular name: Act 368

333.17515 Compliance with MCL 333.17015.

Sec. 17515. A physician, before performing an abortion on a patient, shall comply with section 17015.

History: Add. 1993, Act 133, Eff. Apr. 1, 1994.

Popular name: Act 368

333.17516 Performance of partial-birth abortion prohibited.

Sec. 17516. (1) Except as otherwise provided in subsection (2), a physician or an individual performing an act, task, or function under the delegatory authority of a physician shall not perform a partial-birth abortion, even if the abortion is otherwise permitted by law.

(2) A physician or an individual described in subsection (1) may perform a partial-birth abortion if the physician or other individual reasonably believes that performing the partial-birth abortion is necessary to save the life of a pregnant woman whose life is endangered by a physical disorder, physical illness, or physical injury and that no other medical procedure will accomplish that purpose.

(3) This section does not create a right to abortion.

(4) Notwithstanding any other provision of this section, a person shall not perform an abortion that is prohibited by law.

(5) As used in this section:

(a) "Abortion" means the intentional use of an instrument, drug, or other substance or device to terminate a woman's pregnancy for a purpose other than to increase the probability of a live birth, to preserve the life or health of the child after live birth, or to remove a dead fetus. Abortion does not include a procedure to complete a spontaneous abortion or the use or prescription of a drug or device intended as a contraceptive.

(b) "Fetus" means an individual organism of the species homo sapiens at any time before complete delivery from a pregnant woman.

(c) "Partial-birth abortion" means an abortion in which the physician or individual acting under the delegatory authority of the physician performing the abortion partially vaginally delivers a living fetus before killing the fetus and completing the delivery.

History: Add. 1996, Act 273, Eff. Mar. 31, 1997.

Popular name: Act 368

333.17518 Needle electromyography; performance by licensed physician; delegation; nerve conduction tests; performance of electrodiagnostic studies by physical therapist, podiatrist, or chiropractor; payment.

Sec. 17518. (1) Except as otherwise provided in this section, only an individual who is licensed as a physician shall perform needle electromyography or interpret nerve conduction tests. A physician shall not delegate the interpretation of nerve conduction studies to another individual unless that individual is licensed under this article to engage in the practice of medicine or osteopathic medicine and surgery. A physician shall not delegate the performance of needle electromyography to another individual unless that individual is licensed under this article to engage in the practice of medicine or osteopathic medicine and surgery or that individual is otherwise authorized under this section.

(2) In accordance with section 16215, a physician may delegate the performance of nerve conduction tests to a licensed or unlicensed individual who is otherwise qualified by education, training, or experience if those tests are conducted under the direct supervision of a physician.

(3) A physical therapist who is licensed under this article and certified by the American board of physical therapy specialties as an electrophysiologic clinical specialist on the effective date of this section may perform electrodiagnostic studies that are to be interpreted by a physician if he or she has been performing electrodiagnostic studies in this state on a consistent basis within the 5 years immediately preceding the effective date of this section. A physical therapist who is licensed under this article but is not certified by the American board of physical therapy specialties as an electrophysiologic clinical specialist on the effective date of this section and who has been performing electrodiagnostic studies in this state on a consistent basis since before May 1, 2001 may continue to perform electrodiagnostic studies that are to be interpreted by a physician as long as he or she becomes certified by the American board of physical therapy specialties as an electrophysiologic clinical specialist by December 31, 2007. As used in this subsection, "consistent basis" means at a minimum an annual average of 10 electrodiagnostic studies each month.

(4) A podiatrist who is licensed under this article and has successfully completed additional training in the performance and interpretation of electrodiagnostic studies that is satisfactory to his or her respective board may conduct electrodiagnostic studies that are within his or her scope of practice.

(5) A chiropractor who is licensed under this article and has successfully completed additional training in the performance and interpretation of electrodiagnostic studies that is satisfactory to his or her respective board may conduct nerve conduction tests that are within his or her scope of practice.

(6) This section does not require new or additional third party reimbursement or mandated worker's compensation benefits for services rendered by an individual authorized to conduct electrodiagnostic studies under this section.

History: Add. 2005, Act 264, Eff. Mar. 30, 2006.

333.17520 Genetic test; informed consent.

Sec. 17520. (1) Except as otherwise provided for a test performed under section 5431 and except as otherwise provided by law, beginning upon the expiration of 6 months after the effective date of the amendatory act that added this section, a physician or an individual to whom the physician has delegated authority to perform a selected act, task, or function under section 16215 shall not order a presymptomatic or predictive genetic test without first obtaining the written, informed consent of the test subject, pursuant to this section.

(2) For purposes of subsection (1), written, informed consent consists of a signed writing executed by the test subject or the legally authorized representative of the test subject that confirms that the physician or the individual acting under the delegatory authority of the physician has explained, and the test subject or the legally authorized representative of the test subject understands, at a minimum, all of the following:

- (a) The nature and purpose of the presymptomatic or predictive genetic test.
 - (b) The effectiveness and limitations of the presymptomatic or predictive genetic test.
 - (c) The implications of taking the presymptomatic or predictive genetic test, including, but not limited to, the medical risks and benefits.
 - (d) The future uses of the sample taken from the test subject in order to conduct the presymptomatic or predictive genetic test and the information obtained from the presymptomatic or predictive genetic test.
 - (e) The meaning of the presymptomatic or predictive genetic test results and the procedure for providing notice of the results to the test subject.
 - (f) Who will have access to the sample taken from the test subject in order to conduct the presymptomatic or predictive genetic test and the information obtained from the presymptomatic or predictive genetic test, and the test subject's right to confidential treatment of the sample and the information.
- (3) Within 6 months after the effective date of the amendatory act that added this section, the department of community health, in consultation with the Michigan board of medicine, the Michigan board of osteopathic medicine and surgery, at least 1 physician who is board certified by the American board of medical genetics, and appropriate professional organizations, shall develop and distribute a model informed consent form for purposes of this section that practitioners may adopt. The department of community health shall include in the model form at least all of the information required under subsection (2). The department of community health shall distribute the model form to physicians and other individuals subject to this section upon request and at no charge. The department of community health shall review the model form at least annually for 5 years after the first model form is distributed, and shall revise the model form if necessary to make the form reflect the latest developments in medical genetics.
- (4) The department of community health, in consultation with the entities described in subsection (3), may also develop and distribute a pamphlet that provides further explanation of the information included in the model informed consent form.
- (5) If a test subject or his or her legally authorized representative signs a copy of the model informed consent form developed and distributed under subsection (3), the physician or individual acting under the delegatory authority of the physician shall give the test subject a copy of the signed informed consent form and shall include the original signed informed consent form in the test subject's medical record.
- (6) If a test subject or his or her legally authorized representative signs a copy of the model informed consent form developed and distributed under subsection (3), the test subject is barred from subsequently bringing a civil action for damages against the physician, or an individual to whom the physician delegated the authority to perform a selected act, task, or function under section 16215, who ordered the presymptomatic or predictive genetic test, based on failure to obtain informed consent for the presymptomatic or predictive genetic test.
- (7) A physician's duty to inform a patient under this section does not require disclosure of information beyond what a reasonably well-qualified physician licensed under this article would know.
- (8) Except as otherwise provided in subsection (9), as used in this section:
- (a) "Genetic information" means information about a gene, gene product, or inherited characteristic which information is derived from a genetic test.
 - (b) "Genetic test" means the analysis of human DNA, RNA, chromosomes, and those proteins and metabolites used to detect heritable or somatic disease-related genotypes or karyotypes for clinical purposes. A genetic test must be generally accepted in the scientific and medical communities as being specifically determinative for the presence, absence, or mutation of a gene or chromosome in order to qualify under this definition. Genetic test does not include a routine physical examination or a routine analysis, including, but not limited to, a chemical analysis, of body fluids, unless conducted specifically to determine the presence, absence, or mutation of a gene or chromosome.
 - (c) "Predictive genetic test" means a genetic test performed for the purpose of predicting the future probability that the test subject will develop a genetically related disease or disability.
 - (d) "Presymptomatic genetic test" means a genetic test performed before the onset of clinical symptoms or indications of disease.
- (9) For purposes of subsection (8)(b), the term "genetic test" does not include a procedure performed as a component of biomedical research that is conducted pursuant to federal common rule under 21 C.F.R. parts 50 and 56 and 45 C.F.R. part 46.

History: Add. 2000, Act 29, Imd. Eff. Mar. 15, 2000.

Popular name: Act 368

333.17521 Michigan board of osteopathic medicine and surgery; creation; membership; waiver; certain powers and duties prohibited.

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Sec. 17521. (1) The Michigan board of osteopathic medicine and surgery is created in the department and shall consist of the following 11 voting members who shall meet the requirements of part 161: 7 physicians, 1 physician's assistant, and 3 public members.

(2) The requirement of section 16135(d) that a board member shall have practiced that profession for 2 years immediately before appointment is waived until September 30, 1980 for members of the board who are licensed in a health profession subfield created by this part. The Michigan board of osteopathic medicine and surgery does not have the powers and duties vested in the task force by sections 17060 to 17084.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1993, Act 79, Eff. Apr. 1, 1994;—Am. 1993, Act 138, Imd. Eff. Aug. 2, 1993;—Am. 2006, Act 582, Imd. Eff. Jan. 3, 2007.

Popular name: Act 368

333.17523 Repealed. 1978, Act 625, Imd. Eff. Jan. 6, 1979.

Compiler's note: The repealed section pertained to rules establishing standards and criteria.

Popular name: Act 368

333.17525 Repealed. 2006, Act 161, Eff. Nov. 26, 2006.

Compiler's note: The repealed section pertained to creation of joint task force to advise boards on health profession subfields.

Popular name: Act 368

333.17526 Terms of office.

Sec. 17526. The terms of office of individual members of the board and task force created under this part, except those appointed to fill vacancies, expire 4 years after appointment on December 31 of the year in which the term expires.

History: Add. 2006, Act 386, Imd. Eff. Sept. 27, 2006.

Popular name: Act 368

333.17531 Postgraduate education as condition for more than limited licensure.

Sec. 17531. An applicant, in addition to completing the requirements for the degree in osteopathic medicine and surgery, shall complete a period of postgraduate education to attain proficiency in the practice of the profession as prescribed by the board in rules as a condition for more than limited licensure.

History: 1978, Act 368, Eff. Sept. 30, 1978.

Popular name: Act 368

333.17533 Renewal of license; evidence required; completion of hours or courses in pain and symptom management as continuing education; rules.

Sec. 17533. (1) Notwithstanding the requirements of part 161, the board may require a licensee seeking renewal of a license to furnish the board with satisfactory evidence that during the 3 years immediately preceding an application for renewal the licensee has attended continuing education courses or programs approved by the board and totaling not less than 150 hours in subjects related to the practice of osteopathic medicine and surgery and designed to further educate licensees.

(2) As required under section 16204, the board shall promulgate rules requiring each applicant for license renewal to complete as part of the continuing education requirement of subsection (1) an appropriate number of hours or courses in pain and symptom management.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1986, Act 290, Imd. Eff. Dec. 22, 1986;—Am. 1994, Act 234, Imd. Eff. June 30, 1994.

Popular name: Act 368

333.17540-333.17547 Repealed. 1990, Act 247, Imd. Eff. Oct. 12, 1990.

Compiler's note: The repealed sections pertained to supervision of physician's assistants.

Popular name: Act 368

333.17548 Limitation on number of physician's assistants supervised; prohibiting or restricting delegation of medical care service or requiring higher levels of supervision; delegation of ultimate responsibility prohibited; rules as to drugs; ordering, receiving, and dispensing complimentary starter dose drugs.

Sec. 17548. (1) Except as otherwise provided in this subsection and section 17549(5), a physician who is a sole practitioner or who practices in a group of physicians and treats patients on an outpatient basis shall not supervise more than 4 physician's assistants. If a physician described in this subsection supervises physician's

assistants at more than 1 practice site, the physician shall not supervise more than 2 physician's assistants by a method other than the physician's actual physical presence at the practice site.

(2) A physician who is employed by or under contract or subcontract to or has privileges at a health facility licensed under article 17 or a state correctional facility may supervise more than 4 physician's assistants at the health facility or agency or state correctional facility.

(3) To the extent that a particular selected medical care service requires extensive medical training, education, or ability or pose serious risks to the health and safety of patients, the board may prohibit or otherwise restrict the delegation of that medical care service or may require higher levels of supervision.

(4) A physician shall not delegate ultimate responsibility for the quality of medical care services, even if the medical care services are provided by a physician's assistant.

(5) The board may promulgate rules for the delegation by a supervising physician to a physician's assistant of the function of prescription of drugs. The rules may define the drugs or classes of drugs the prescription of which shall not be delegated and other procedures and protocols necessary to promote consistency with federal and state drug control and enforcement laws. Until the rules are promulgated, a supervising physician may delegate the prescription of drugs other than controlled substances as defined by article 7 or federal law. When delegated prescription occurs, both the physician's assistant's name and the supervising physician's name shall be used, recorded, or otherwise indicated in connection with each individual prescription.

(6) A supervising physician may delegate in writing to a physician's assistant the ordering, receipt, and dispensing of complimentary starter dose drugs other than controlled substances as defined by article 7 or federal law. When the delegated ordering, receipt, or dispensing of complimentary starter dose drugs occurs, both the physician's assistant's name and the supervising physician's name shall be used, recorded, or otherwise indicated in connection with each order, receipt, or dispensing. As used in this subsection, "complimentary starter dose" means that term as defined in section 17745. It is the intent of the legislature in enacting this subsection to allow a pharmaceutical manufacturer or wholesale distributor, as those terms are defined in part 177, to distribute complimentary starter dose drugs to a physician's assistant, as described in this subsection, in compliance with section 503(d) of the federal food, drug, and cosmetic act, chapter 675, 52 Stat. 1051, 21 U.S.C. 353.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1988, Act 462, Eff. Sept. 1, 1989;—Am. 1990, Act 247, Imd. Eff. Oct. 12, 1990;—Am. 1996, Act 355, Imd. Eff. July 1, 1996.

Popular name: Act 368

Administrative rules: R 338.6101 et seq. of the Michigan Administrative Code.

333.17549 Responsibilities of physician supervising physician's assistant.

Sec. 17549. (1) In addition to the other requirements of this section and subject to subsection (5), a physician who supervises a physician's assistant is responsible for all of the following:

- (a) Verification of the physician's assistant's credentials.
- (b) Evaluation of the physician's assistant's performance.
- (c) Monitoring the physician's assistant's practice and provision of medical care services.

(2) Subject to section 17548, a physician who supervises a physician's assistant may delegate to the physician's assistant the performance of medical care services for a patient who is under the case management responsibility of the physician, if the delegation is consistent with the physician's assistant's training.

(3) A physician who supervises a physician's assistant is responsible for the clinical supervision of each physician's assistant to whom the physician delegates the performance of medical care service under subsection (2).

(4) Subject to subsection (5), a physician who supervises a physician's assistant shall keep on file in the physician's office or in the health facility or agency or state correctional facility in which the physician supervises the physician's assistant a permanent, written record that includes the physician's name and license number and the name and license number of each physician's assistant supervised by the physician.

(5) A group of physicians practicing other than as sole practitioners may designate 1 or more physicians in the group to fulfill the requirements of subsections (1) and (4).

(6) Notwithstanding any law or rule to the contrary, a physician is not required to countersign orders written in a patient's clinical record by a physician's assistant to whom the physician has delegated the performance of medical care services for a patient.

History: Add. 1990, Act 247, Imd. Eff. Oct. 12, 1990;—Am. 2004, Act 512, Imd. Eff. Jan. 3, 2005.

Popular name: Act 368

333.17550 Supervision prohibited; grounds.

Sec. 17550. In addition to its other powers and duties under this article, the board may prohibit a physician

from supervising 1 or more physician's assistants for any of the grounds set forth in section 16221 or for failure to supervise a physician's assistant in accordance with this part and rules promulgated under this part.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1990, Act 247, Imd. Eff. Oct. 12, 1990.

Popular name: Act 368

Administrative rules: R 338.6101 et seq. of the Michigan Administrative Code.

333.17554 Criteria for approval or evaluation; recommendations.

Sec. 17554. The board shall make written recommendations on criteria for the approval of physician's assistants and on criteria for the evaluation of physician's assistants' training programs to the task force on physician's assistants.

History: 1978, Act 368, Eff. Sept. 30, 1978.

Popular name: Act 368

333.17556 Exemption.

Sec. 17556. This part does not apply to a student in training to become a physician's assistant while performing duties assigned as part of the training.

History: 1978, Act 368, Eff. Sept. 30, 1978.

Popular name: Act 368